P 7108-92.

G. R. S. [X-5]

Precious references.

1892-93

192 .

(L-R)

File No. 182-92

Serial Nos. 1-12

Later references.

LR 126-97

GENERAL AND REVENUE SECRETARIAT

Serial Nos. 1-12.

In ~~Part~~ B for March 189.

SUBJECT.

Appeal of ~~Bharamanna~~ Bharamanna & others for the Patell Office of Davanagere —

To,

The Dept^l Commissioner, Chitaldrug District,

No. 15424 B. $\frac{11}{21}$ 3.95. LR 182-92-12.
P. F. 108-92.

Dismissing the Appeal of Bharamanna & others regarding the Patell Office of Davanagere —

Enclosures

WD 2233—GPB—20,000—14-6-20

Memo

A-S No. 12 of 1892-93

Appellants

1 Bharamanna
2 Sidda
3 Ajjappa

Respondents

1 Annappala Sidda Linga
2 Muriappa.

In 1890 the appellants (Plffs) filed a suit before the Deputy Commissioner of Chitaldroog (which was referred to the Asst. Comm. for disposal) for the recovery of the Pateli of Davangere. They alleged that they were the hukdars to the office, that their ancestor Ajjappa had been doing the pateli duties till 1847 when he getting old got one Hotte Gowda appointed as gumastha, that Hotte Gowda was doing the duties till 1865 and afterwards the Respondent was appointed

Respondents duty

This appeal the Dy Comr is regarded by the Court as one appeal in which both the Courts have concurred in dismissing the suit. The Respondents in performing the duties of the office and Plffs the enjoyment of the Inam lands of 1847 to 1865 if they are not then

24/6/94

Posted to 8-3-94.

patel with the consent of the said Ajjappa, that the 1st Respondent had prior to the Pukka Potgi settlement which took place in 1877-78 executed an agreement to the appellants promising to pay them Rs20 annually out of the Potgi amount and to vacate the office when they attained majority and became competent to do the patel ~~duties~~ duties and that until 1884 the 1st Respondent had been paying the amount as agreed upon.

The ~~Resp~~ Respondents (Depts) stated that Hotteppa above named and the 1st Respondent ~~had~~ had held the office as direct hukdars and not as ~~guma~~ gumastas for Ajjappa, that the 1st Respdt had never executed any agreement to the appellants and that the suit was time-barred.

The General Asst Commr finding that the 1st Respdt and his son the 2nd Respdt had been in undisturbed enjoyment of the office for over 30 years and that no agreement whatever

had been executed by the 1st Respondent in favor of the appellants as alleged in the plaint, dismissed the suit with costs

An appeal was then preferred to the Deputy Commr against the above order. It was urged among other grounds that the suit was not barred by limitation since Mallappa a member of the appellants family had been doing the Patel duties till 1881 and the 2d & the 3d Plaintiffs (appellants) were also minors.

The Deputy Commr found that the Respondents had successively held the office in dispute from the year 1857 up to date, not as gumasthas or trustees for the appellants but in their own independent right, & that the appellants had failed to prove

the execution of the agree-
ment referred to above,
and he accordingly
dismissed the appeal.

The present appeal
to Court is against this
order.

The appellants allege:-

i That the lower Courts
erred in holding that
the Respondents were
the lukoars to the office
in dispute.

ii That the evidence
adduced by the Respondents
is interested & unreliable

iii That the Court of first instance
failed to raise an issue as to
who were in possession of the Vakki
Embili lands, for the determination
of the question as to who were the
Hakdars.

The notes of evidence, the Judgment
of the Govt Agent Comm^r the Judgment
of the D^r Comm^r and the petition of
Second appeal are all in English.

A precis prepared in the office is
put up, but it contains nothing that
is not stated in the Judgments which
are as elaborate as in Civil cases.

13/4/93.

Dist Vanderstraaten
Govt Agent Matale
Govt Agent Matale
Govt Agent Matale

Precis

A. S No. 12 of 1892-93

Appellants

1 Bharamia
2 Sidda
3 Appappa

versus

Respondents:

1 A. Siddalingia
2 Murigappa

In August 1890 the appellants (Plffs) filed a suit against the Respondents (Defts) in the Court of the Deputy Comm. Bellary for the recovery of the patel office of Davangere Kusba.

The plaint is as follows:-

1 That the Plaintiffs are the hereditary hukoars & the patels of Davangere

2. That the patel Depts of 1847 and 1865 mention Appappa grandfather of the 1st Plff and great grandfather of the 2d and the 3d Plff as the hukoar

3 That the said Appappa and his ancestors looked after the patel duties till 1847 when one Hotte Gowda was appointed patel

summarthe
Since the said Ayyappa was old and there was nobody else in his family then competent to hold the office.

4. That Hottè Gowda above names had been doing the duties till 1865 and afterwards the 1st Deft commenced to look after the duties with the consent of the 1st Plffs' grandfather Ayyappa

5 That the 1st Deft is entered as joint hissedar in the Patell Register of 1865 the reason for which however is not known.

6 That prior to the Potgi settlement which took place in 1877-78 when the 1st Plff and his brother (father of the 2d & the 3d Plffs) had still been young and unable to do the Patell duties the 1st Deft executed an agreement in their favor that he would perform the duties until they (Minors) became competent to look after the same and that till then he would be paying them Rs 20 ~~each~~ annually out of the Potgi amount

that the 1st Deft continued to pay Rs 20 annually as agreed upon until 1884

8 That the cause of action accrued in 1884.

On the 15th August 1890 the Deputy Commr referred the case to the Genl Asst Commr for Enquiry and Disposal.

On the 4th November 1890 the Defts filed a written statement before the Genl Asst Commr as follows:—

1 That the Defts are the hereditary hukoars to the pateli of Davangere.

2 That neither Aggappa grandfather of the 1st Plff nor any one else in his family ever performed the pateli duties

3 That Hotté Gowda above names son of the 1st Defts paternal uncle was doing the pateli duties from [illegible] 1847 up to 1857.

4 That Hotté Gowda owing to old age resigned the office in 1857 in favor of the 1st Defts and got him appointed patel.

5 That since then the 1st Defts was doing the duties till August 1882 when he

got the 2d Deft his son appointed patel.

6. That Hotteppa above named and after him the 1st Deft held the patel office as direct hukoaro and not as gumastha for Appappa the Plaintiffs' ancestor

7 That the agreement referred to in the plaint was not executed by the 1st Deft

8 That the Defts never paid to Plffs Rs 20 per annum out of the Polgi amount.

9 That the suit is barred by limitation.

10 That in 1883 the Deputy Commr issued an order to the Plffs disallowing his claims to the patel.

The Genl Asstt Commr framed the following issues in the case

1 Is the suit barred by limitation?

2 Whether the Plffs or the Defts are the hukoaro to the patel?

3 Whether or not the 1st Defts had executed any agreement to Plffs promising to pay them Rs 20 per annum out of the Polgi amount?

The Plaintiffs examined eight witnesses and the Defendants one.

The Pateli Register of 1867 mentions Ajjappa as hukoar and Hotte Gowda as officiator

In 1856 Sivva Linga the 1st Respondent was appointed Patel on the application of Hotte Gowda Hotte Gowda states in his application that the 1st Respondent is his brother. The Barabaluti Register of 1865-66 mentions Ajjappa as hukoar and Ajjappan Sivva Linga as ~~one~~ one of the hissedars under the head of officiator in the said Register the name of Sivva Linga is mentioned

(vide 1st Respts' Evidence before the Genl Asst Commr as 6th witness for Plffs)

The records shew that the 1st Respondent Annappa Sivva Linga is different from Ajjappana Sivva Linga

In a Revenue Suit filed before the Amildar of Davangere in ~~1853~~ 1854 by Bharamia against Hotte Gowda with regard to the Pateli of Davangere Kusba, it was held that the said pateli originally belonged to three different families in equal shares by one to Gollar family

another to wakkaligar family and the third to kurubar family, & that the gollar family having since become extinct the patel office should go to the remaining two families and be enjoyed between three persons of whom one represented the wakkaligar family and the other two persons Hotte gowda and Bharamia above named represented the kurubar family (vide Kannada proc.)

Mr. N. Venkata Rau Genl Asst Commr who tried the case states in his order dated 10.8.91 as follows:-

Mallappa was appointed police patel in 1873, but not as a descendant of Ajjappa and was removed in 1881 as Gain-hukoar (1878 vide copy of Pukka Potgi Register) (vide exhibit 7)

If Mallappa was appointed on behalf of the Plaintiffs there was no reason for their securing the agreement alleged to have been executed by the 1st defdt in their favor to pay them Rs 20 annually and to make over the office to them when desired The allegations of the plffs that Mallappa

represented them till he withdrew from the office in 1881 and that the 1st Deft executed the said agreement to them are I think, false and put forward to save limitation

The records clearly shew that Hotté gowda and after him his cousins the 1st and the 2d Defts have been continuously looking after the duties from about the year 1824 with a slight break of a few months or at most one or two years between 1854 & 1857. The subsequent undisturbed Enjoyment of the office for 30 years by 1st Deft and his son the 2d Deft is also strong proof of the Defts being the cousins of Hotteppa Further in his statement given before the Amildar in 1893 the 1st Plff clearly recognizes the 1st Defts link to half the pateli It is therefore beyond doubt that the Defts have been in the Enjoyment of the link as link-dars through Hotteppa who is admitted in the same statement

Vide Exhibit No. 10

to have been Plaintiffs
"dayadi" (cousin). × ×
of Plffs' family was represent
-ed by Mallappa what
occasion was there for
any such agreement as Exhibit no. 6
is referred to above."

Mr Venkata Rao's
findings on the several
issues are:

1 That the suit to recover
the patel from the Defts
is barred.

2 Both the Plffs and
the Defts are Kukoars
to the patel

3 No agreement such
as referred to in the plaint
was Executed by the
Defts.

4 The Plaintiffs are not
entitled to any relief.

A decree was accord
-ingly passed stating that
Plffs' suit to recover the 10-8-91
patel was barred and
that they were not entitled
to any relief

On the 24th October
1891 the Plaintiffs appealed
to the Deputy Commr against
the above decision on the
following grounds:

(1) That it has been

proved by the evidence of Plffs' witnesses that the Plffs (appellants) are the kutcars to the office in dispute and that the 1st Deft: (1st Respt:) was only a gumastha & that he had executed a kara in 1878 to that effect.

2 That the suit was not barred by limitation as one Mallappa, a ~~member~~ member of the Plffs' family was doing only as Patel until the year 1881 along with the 1st Deft: (1st Respt:)

3 That the 2d & the 3d Plffs being minors their claim is not barred

4 That from the evidence of Mallappa, it is clear that the 1st Deft: (1st Respt:) is not a member of Hottappas family

5 That it has been proved by the ~~evidence~~ witness as examined by the lower Court that Hottappa did not belong to Ajjappas family and that both

Hottappa and the 1st Deft were appointed to the office of Patel with the consent of the said Ajjappa.

6 That the lower Court was therefore wrong in deciding the several issues in the Case in favor of the Respondents.

The Deputy Commr in his order states thus.

16-4-92

"There can be no doubt whatever that in the year 1847 Hotte Gowda was the person actually doing the duties of the office, while Ajjappa was only a nominal holder of it The 1st Deft became Patel in the year 1857. when Hotte Gowda resigned the office in his favor and since then he (1st Deft) and his son (2d Deft) have been in undisturbed possession of the office In the Pukka Police Settlement however, one Mallia who is alleged to be a distant "dayadee" of the Plffs was appointed Police patel while the 1st

Deft was appointed Revenue Patel, but the said Mallia was dismissed from his office in 1881 on the ground that he was not a kulkoar. Even granting that Mallia was one of the kulkoars that fact does not in any way support the claim of the Plffs, as they do not say that they derive their title to the office from Mallia. The Evidence on record shews that both Plffs & Defts are descended from a common ancestor.

The lower Court has in my opinion rightly dismissed the Plffs' Suit as the Defts (father & Son) have successively held the office in dispute from the year 1857 up to date, not as guna sthas or trustees for the Plffs, but in their own independent right. I therefore dismiss the appeal with costs."

The present appeal is against the above order

The grounds of appeal are:—

21.7.92

1 That both the

lower Courts erred in holding that the Defts are the hukoars to the pateli in dispute.

2 That the Court of first instance failed to raise the issue as to who were in possession of the Pateli Emble. lands

3 That the oral Evidence adduced by the Defts is interested & wholly unreliable.

The appellants pray that they may be declared as hukoars and be allowed to perform the duties

bch

17

Before the Government of *His Highness* the Maharaja of Mysore.

Appeal No. ~~2~~ 12 of ~~1893-94~~ 1893-94½. (11)

Appellant: Subbaraya of Kallur, Gubbi Taluk, by Mr. D. Venkatarama Aiya Advocate

Vs.

Respondent: Ire Gowda son of Appaji Gowda, by Mr. C. Krishna Murthi Advocate.

~~Decision.~~

Notices served on the Advocates

8 3. 95.

(Let this come before you previous to the whole appeal must be included in the order)

Mr Advocate Venkata Ramaiya conceded that on the findings now submitted he has no case. The appeal is accordingly dismissed with costs.

Abdul Rahiman K.B.M.

attested 11/3

11. 3. 95

To H.C.

(1). Stamp Correct

(2) Copy produced

(3) Appeal in time

(4) Rule I (1) of the Bdol Rules

Call for Reps with the usual report BO.
VL
27/7/92

(General Serial No. 82.)

1892.

No. 208

Name of Petitioner. Bhaumappa son of Hulleppa & 2 Ors

Village. Davangere

Taluk. Do.

District. Chitaldroog

Date of Appl. 21 July 1892

Date of Receipt. 21 Do

Date of Disposal.

No. of Enclosures. Five including the Vakalatnama

ABSTRACT.

Appeal against the Judgment and Decree passed by the Dy Commr, Chitaldroog in Rev: appeal case No 7 of 1891-92

26/7/92

2080
21-7-92

Two Rupees stamp. The Government of Mysore
Mysre 21/7/92 A.S. 1012 (1) Bangalore
92—93.
21/7/92 Revenue Appeal No of 1892

Appellants
1. Bharmanna son of Hutcha Siddapa &
2. Sidda son of Gowda Nagappa (minor)
3. Appappa Son of the said Nagappa (minor)

Respondents
Annappala Sidda Lingappa
2. Ivariyappa Son of the 1st Respondent

The appellants above named being to appeal against the proc. and the decree passed by the Deputy Commissioner, Chitaldrug, in Rev. Appeal case No 7 of 1891-92 on the following grounds.—

1 That both the Lower Courts were in holding that the Defts are the Huckdars to the Patels in dispute

2. That the Court of 1st Instance failed to raise the issue as to who were in possession of the Patels

Humble

Inuble lands for the determination of the question as to who were the Huckdars.

3. That the oral evidence adduced by the Defendants is interested and wholly unreliable

For these reasons the appts pray that the decisions of the Lower Courts may be set aside and the Plffs be declared as Huckdars and be allowed to perform the duties

Bangalore
21st July 92

D Vm Kalmanuff
Adv. for appts

ಕೋರ್ಟಿಗೆ.

ಸನ್ 189 ನೇ ಇಸವಿ ನಂಬರ.

ಪ್ರತಿವಾದಿ.

ಗೆ.

ಬರೆಸಿ ಕೊಟ್ಟ ವಕಾಲತ್ ನಾಮೆ.

ಈ ಮೊಕದ್ದಮೆಯಲ್ಲಿ ನನ್ನ ಪರವಾಗಿ ಕೋರ್ಟಿಗೆ ಹಾಜರಾಗಿ ಅರ್ಜಿ ವಗೈರೆ ಕೊಟ್ಟು, ವಿವಾದಿಸಿ ಫೈಸಲ್ ಹೊಂದತಕ್ಕ ಬಗ್ಯೂ, ಮತ್ತು ನನಿಗೆ ಸಲ್ಲತಕ್ಕ ಡಿಕರಿ ಮೊಬಲಗು ದಸ್ತ್ಯಾವೆಜು ವಗೈರೆ ತೆಗದು ಕೊಂಡು ರಶೀದಿ ಕೊಡುವದಕ್ಕೂ ಸಹಾ ತಮಗೆ ಅಧಿಕಾರ ಕೊಟ್ಟಿದ್ದೇನೆ, ಆದ್ದರಿಂದ ತಾವು ನನಿಗೋಸ್ಕರ ಕೋರ್ಟಿಗೆ ಹಾವರಿಯಾಗಿ ನಡಿಸುವ ಎಲ್ಲಾ ಕೆಲಸಗಳನ್ನು ನಾನು ಖುದ್ದು ಇದ್ದು ನಡಿಸಿದಂತೆ ಒಪ್ಪುತ್ತೇನೆ.

ತಾರೀಖು 16 ಫೆಬ್ರವರಿ
ಸನ್ 1892 ನೇ ಇಸವಿ.

ರುಜು

ಅಂಗೀಕರಿಸಿ ಇರುತ್ತೇನೆ.

ಈ ಮೊಕ್ತ್ಯಾರ್‌ನಾಮೆ ಕೊಟ್ಟವರು ನನಗೆ ಪರಿಚಯಸ್ಥರು ನನ್ನ ಸಮಕ್ಷಮ ಇದಕ್ಕೆ ರುಜು ಮಾಡಿ ಇದ್ದಾರೆ ಆದ್ದರಿಂದ ನಾನು ಸರ್ಟಿಫೈ ಮಾಡಿದ್ದೇನೆ.

Vichara Darpana Press, Bangalore.

Pet
F. 108–92.3

(3)

23

No. 1892-97

MYSORE DEWAN'S OFFICE.

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

From the Dewan. No 201 of 22-7-92

The accompanying Petition No. 208

dated 21-7-92 received at the

Dewan's Office from Bhagavanna... son of Hutch... Siddappa a... 2 Mors. of Dasanyere, Alle... against the Deputy Comm... order regarding their hut... to the Palace office.

is forwarded, together with its 5

enclosures, to the Deputy Comm... Chitaldrug Dist for submis... of Proceedings with a report... the facts of the case and o... the points taken in the Pet... & The petition should be returned

By Order,

5 — 8 — 1892. Bangalore, } for Chief Secretary.

5/8/92

Encl 5

5/8/92

Pet: F. 108 of 92

Ctn Br
Nov 25/10/92

Submit
Govt
92
27/11/92

24 (General Serial No. 30.) 4195.

(4)

1892. Pet 204

From The Deputy Commissioner
Chitaldroog District

To The Chief Secretary
to the Govt: of Mysore

Dated 22nd October 1892
Despatched 24th
Received

Enclosures No. Records are sent separately.

General No. 201
No. 187

Subject: Petition of Bhavanamma and two others praying that they may be declared Huckdars and be allowed to perform the duties of the Potelaship of Doravanagere, and requesting to submit the proceedings in the case with a report.

Sir,

With reference to the above, I have the honor to submit herewith the original as well as the

Two files of papers.
Case No 7. (Original)
Case No: 7 (Appeal)

26/10/92

25

the appeal Records
Connected with the case,
and to state that the
English Judgments
in the Case fully con-
tain all the necessary
facts.

2.- The enclosures
received with the
Memo under reply
are herewith returned

Deputy Commissioner

Ltrs

(General Serial No. 30.)

189

From

To Dy Comr. Chitaldrug

~~*The Chief Secretary to the Dewan of Mysore.*~~

Dated 12th

Despatched 15th } July 1893

Received

Enclosures No.

General No. 648-50.

P.F. No. 108-92

From the same No 203 of 11/9/93.

27

Proceedings of the Govt of H. H.
the Maharaja of Mysore

Read

(1) Petition No $\frac{208}{12}$ of 1892-93 presented by Bharmanna & others of Davangere, appealing against the decree of the Deputy Commr of Chitaldroog dismissing their claim to the Pakli of Davangere

(2) Records received with docket No $\frac{201}{167}$ dated 22nd October 1892 from the Deputy Commr of Chitaldroog

Order— No $\frac{648-50}{\text{Pet Ft. } 108-92}$ dt $\frac{12\text{th}}{15}$ July 93. with 2 files of V. papers —

The parties were heard.

Before deciding the appeal the Government desire that the Deputy Commr should ascertain and report in whose possession the Inubli lands attached to the office have been during the period Hottekpa and the Defts have been performing the duties of the office, and further submit to this office the original Registers of 1847 & 1885.

3. The records are returned for reference & verbomission.

Chief Secretary

1. Mr. D. Lakshmanappa advocate for Pltffs
2. The Deputy Commr Chitaldroog Dt
3. Messrs Lawrence & D'cruz advocates for Respondents.

28

(General Serial No. 30.)

1893

35-05-

15 SEP. 9

LR 182-92-5

From ~~The~~ P.174
The Deputy Commissioner
Chitaldrug District

To

The Chief Secretary to the ~~Dewan~~ Government
of Mysore.

Dated the 11th.

Despatched 12th September 1893

Received

Enclosures No. Records, Register
Req: Lent Sepy.

General No. 203.

No. 172.

In reply to Proy. No. ~~648-92~~ LR 108-92 of 12th July/93

SUBJECT.

Reporting that the Poleli Umbli Lands of Bovanpore are in the enjoyment of the Hissadars of the Poleli huck and submitting proceedings and Registers.

Date
15/9/93

References (to be entered only in the Dewan's Office).

No. 203. / 172.
Encs: Records,
Registers &c:
Sent Separately.

Deputy Commrs Office
Chitaldrug District
Dated 11th September
1893

To.

The Chief Secretary to the
Govt of Mysore
Bangalore

Sir,

With reference to Government Proceedings No. 648-50 / L F 108-92 dated 12th July 1893, calling for report as regards the enjoyment of the Potáli Emblí lands of Davanagre, I have the honor to submit for information, report No 179/179 dated the 16th ultimo received from the Amildar of Davanagre with its enclosures, from which it will be observed that the said Emblí lands have been in the possession of the several Hissadars of the Potáli hock from the beginning, and that the assessment thereof so being

paid to Government according to their proportionate shares. Hollappa and Siddappa are also in the anjoignant of their respective shares. The original Potáli Registers of 1847 & 1865 received from the Amildar and the records received with the Proceedings under reference, are herewith submitted.

I have the honor to be,
Sir,
Your most obed.t Sert.

Assistant
Deputy Commissioner
Chitaldrug D.t

31

(8)

Before the Government of *His Highness* the Maharaja of Mysore.

LR 162-92-12

Appeal No. 12 of 1892-93

Appellant.

B. Karamamma
Siddappa
Ajjappa
(Plaintiffs) of Davengere.

Vs.

Respondents.

Siddalingayya
Nirigappa
(Defendants)

Decision. 2nday 1894

Appellants sued for the establishment of their rights to, and to recover possession, of the office of Patail in Davengere. It was dismissed as barred by the Law of Limitation

2 Both Appellants and Respondents are enjoying the inmbli lands, according to their shares. Appellants contend that the suit is not barred by the Law of Limitation, because they still continue to enjoy

enjoy the umbli lands attached to the office, according to their shares. This point does not appear to have been considered in the Lower Court. According to the explanation appended to article 124 of the Schedule to the Limitation Act, an "hereditary office is possessed when the profits thereof are usually received." The question is whether the enjoyment of umbli lands pertaining to the office is sufficient to remove the bar, but the umbli lands in the case under notice, appear to have been fully assessed, though still retained as service Inams in the accounts and are prohibited from being alienated. It is a

point

point for consideration whether
the enjoyment of umbli lands
under such circumstances
does operate as a bar to the
Limitation or not The Deputy
Commissioner is therefore requested
to ascertain and report when
the umbli lands in this case
were finally assessed and whether
it is the assessment or land
that constitutes the service Inam
having regard to Sections XXVIII
and XXXVII of the Rules for
the remuneration of village
officials, and record a finding
whether under all the circumstances
the enjoyment of umbli lands
in this case does or does not
operate to remove the Limitation
bar and submit the same

for the final decision of Government 84

By order

Draft

No 21178 for Chief Secretary
P.F. 108-92 dt 5.6.94.

Copy forwarded to the Deputy Commissioner Chitaldroog desired with the Proceedings

Draft Govt
No. passed
OK

OK 5/6

OK 3/6/94

OK

Print in Abstract and this may be
2.6.94 15/6 printed in 4 Lemos after
final orders are passed.

No. 208/12

LR 182-92-7

39 208/12 9-6-94

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT. (7)

5th June 1894

Endorsement granted to Bharamamma and others of Davengere, represented by Mr D Venkatramayya, advocate

in reply to their Petition Registered No. 208/12 dated 21st July 1892, appealing against the decree of the Deputy Commissioner, in Ap appeal No. 207 of 1891-92 regarding the Patels of Davengere

Petitioner is informed that the appeal has been remanded to the Deputy Commissioner Chitaldroog District for further enquiry and finding

By order

Chief Secretary

Copy forwarded to the Respondents Lidda Singanya and another

Draft.

By order

Chief Secretary.

M. G. C. P. Bangalore—6-3-94.—2000.

25/5

LR 182-92-8

(General Serial No. 30.

1894 3- 1409

From The Deputy Commissioner, Chitaldroog District.

To The Chief Secretary to the Government of Mysore.

Dated 1st August 1894

Despatched

Received

Enclosures No.

General No. 93

No. 85

Bring up on receipt of the report 28/7/8

Put up with papers

Rec'd 3/8

From

The Deputy Commissioner
Chitaldroog District

To

The Chief Secretary to the
Government of Mysore
Bangalore

Dated 1st
Despatched } August 1894
Received

Enclosures No. 93/85

His No. 1542 dated 25th
P. F. 108-92
July 1894 calling for an early
report on certain points con-
nected with the Poteli of Dawan
gere.

In reply has the honor
to state that it having trans-
-pired during the enquiry that
the plaintiff's share of the Inmbli
lands in question had passed
into the hands of a third party
by Court sale so far back as
in the year 1880 the further enquiry
into

into the case has been adjourned
till the 20th instant in order
to enable the undersigned to
obtain the record of such court
Sale A report will be submitted
as soon after the 20th instant
as practicable.

Yours &c

Deputy Commissioner
Chitaldroog District

LR 182-92-9 39

No. 222/197 Encl 6 files of papers separately sent

Deputy Commissioner's Office
Chitaldroog District
Dated 17th September 1894
Recd 19th — do —

To

The Chief Secretary to the
Government of Mysore
Bangalore

Sir,

With reference to your memo No. 21178/87.108-92 dated 5th June 1894 and docket No. 1542/87.108.92 dated 25th July 1894, I have the honour to resubmit the marginally noted records regarding the Potéli case of Davanagere together with my findings on the points referred to me for enquiry and report.

I have the honour to be
Sir
Your most obedient servant

Recd endorsement
Deputy Commissioner
Chitaldroog District

Records as per Persist in Govt: Appeal Case No. 12 of 1892-93. } 1
General Appeal Court Commissioner's Court No 7 of 1890-91 — } 1
Appeal case No. 7 of 1891-92 (Deputy Commissioner's Court } 1
Original Potéli Inamti Register Davanagere Taluk of 1847 } 1
Original Register of Potails in Davanagere Taluk of 1865- } 1
Davanagere Amildi Report No. 179 of 16th August 1893 record with Persist — } 1

Bundles 6 —

L 10

Peter
21.9.94

Supdt. Revenue
Examine records and
see if they tally with the Report
21/24/9

25/1.

(General Serial No. 30.)

1894 3920 (10)

From The Deputy Commissioner Sec: 202
Chitaldroog District

To Government

The Chief Secretary to the ~~Durbar~~
of Mysore.

Dated 17 th " September 1894

Despatched 19 th "

Received

Enclosures No. 6 files of papers sent separately

General No. 222
No. 197

In reply to Rs: 21178 / P.7.108-92 15/9 June 1894

SUBJECT.

Resubmitting the Records regarding the Pakki case of Davangere together with the findings of the Deputy Commissioner on the points referred to for enquiry and Report.—

References (to be entered only in the Dewan's Office).

LR 18 2-92-10 H1

UNIVERSITY OF MYSORE

Appeal 12 of 1892-93

(13)

Appellant
Bharamanna
Seddappa
& Vijappa
by Mr D. Venkatanarainah

Respondent
Siddalingappa
& Gurugappa
by Messrs Lawrence
and D'Cruz

Appellants brought
his suit for the establish-
ment of his right and
for recovery of possession
of the price of Patel &
Daimgere.

The General and
Commr of Chitaldroog
dismissed the suit
and the Dy Commr
confirmed the his decree.
Plaintiffs have preferred
his second appeal.

1st Plaintiffs allegations were that his grandfather Ajje Sowda was the Patel of Davangere, that in 1847 he appointed one Hatte Sowda as his Gumastah and that on Hatte Sowda resigning the appointment in 1865 on account of old age, 1st Defdt. Commenced to do duties as Gumastah with Ajje Sowda's Consent. The plaint also averred that 1st Defdt agreed to pay a third share of the emoluments to Ajje Sowda that 1st Defdt paid the same to Plff after Ajje Sowda's death that before Pahije settlement 1st Defdt executed a Thumped Karar agreeing to pay Rs 20 a year to Plaintiff and that 1st Defdt who was making the payment as aforesaid ceased to do so in 1884.

Defendants pleaded that Plaintiffs and they were Dayadies and that the members of their family have been

43
doing the duties of the office
unlawfully since June 1847
that no Karar was executed
by in favour of the Plaintiff as
alleged and that the suit
was barred by limitation

Both the Asst Commr
and the Dy Commr
found
(1) that Hotte Jowda and
after him his Cousins
the (1st & 2nd) defts have
been unlawfully
doing the duties of the
office since 1857
(2) that the Champfeld
agreement referred to was
executed
(3) that the suit was
barred by limitation

It was urged
before Secd appeal
Court that the
suit was not barred
because Pltff were in
enjoyment of these Rents
of the Public Land

The case was remanded
to the Dy Commr for
evidence and a finding
on the following points

(1) When were the Crown
lands fully assessed
(2) and whether at the
assessment or the
land that constitutes
the Luam, having regard
to Sections 28 + 37 of
the Petje rules and
(3) whether the enjoyment
of the Crown lands does
or does not operate to
remove the limitation
bar

The Dy Commr
examined the appellant
Bhoomanna, the Shanbhag
of the village and one
Siddappa and has
recorded the following
findings
(1) As the Jodi was higher
than the assessment
at the request of the parties

No. 45.

Assessment was ~~before~~ imposed on the land by the Survey Dept about 30 years ago —

(2) Appellants are not in possession of any of the lembole lands, their possession having ceased in 1880 — and the question whether his possession operates to ~~remove~~ the limitation bar does not arise —

The Dy Commr in his letter no 203/172 dt 11th Sep 1893 reported that Appellant was in possession of his share of the lembole lands, praying assessment for them — On his findings now submitted he says he Commuted a mistake ~~made~~ and that appellants have no lands — The Dy Comm's present finding

is supported by
evidence - Appellant
Bhoramanna in his deposition
dated 6-9-94 stated
as follows: —
"I am not in possession
of any of the Patali
Umbli lands. Chicka
Baramanna, my uncle's
son, is in possession. My
father and uncle became
divided long ago and
we have been living separately."

Guru Rao, Shanbog
of the place, deposed as
follows —
"I have been Shanbog
for the last 30 years.
The Patali Umbli lands are
S. Nos 15, 16, 44, 47, 49 & 126.
~~of these~~
No 15 - Half of this fell
to the share of Appaya
and the other half to
another Anegondar
Nagappa. Appaya's
half share came to
the Appellant. His
half share has been
in the possession of
Gangadhappa for the

last 15 years. 47

No 47 – The whole of
the land to the share
~~land to the share~~
of appellants' uncle
Siddappa. Appellants
have no share in
it. Siddayya
Basavanna (appellants
uncle's son) has been
enjoying it

49- Ajjaya & his sons
(appellants) got no
share in the

126 Appayya had 2 sons
It went ~~to Sidd~~
share??

The proceedings in
Execution Case 67
of 1880 on the file of
the Chitaldroog Munsiff's
Court show that appellants
shares in Sy. Nos. 16 and
44 were sold in execution
of a decree on 26-8-80
and purchased by
Gurupadeppa –

48

(As regards limitation
it has been decided
in Rev. appeal 113 of 92-93

that where there is clear
proof that a Defe has
entered upon the duties
of a Secretary office
on a particular date
and has been performing
the duties uninterruptedly
for a period of 12 years
suit will be barred
by limitation and that
it is not necessary to go
into the question whether
Plff has been in receipt
of a share of the emoluments
within the statutory period.)

Mr. advocate Venkata-
ramiah conceded that
on the findings now
submitted he has no
case. The appeal is
accordingly dismissed

By order

Redrafts Asst Chief Asst

Subd
May this para be omitted?
ELJ 13/3
Mayeramam

No 15424. & 14-3-95 49
Pets. 108-92 / 21.

Copy forwarded to the Dy. Commr. Chital-drong district, returning the records received with his letter no: 222/197 dated 17th Septr. 1894.

14/3
Offg: Ch: Secy:

Redraft on council order

14/3/95

PKR. 13/3.

14/3

No. 208

Lr 182-92-11

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT,

(12) 189

Endorsement granted to Bhaimadeva and Lakkappa of Davengere, represented by Mr. D. Venkatasamiah advocate.

in reply to their Petition Registered No. 208 dated 21st July 1892 appealing against Mysy. Commrs order in a.s. no. 7 of 1891-92 regarding re Patels of Davengere.

Petitioner is informed that their appeal has been dismissed

2. The enclosures are returned

14/3/95

16.3.95

"By Order"

Chief Secretary.

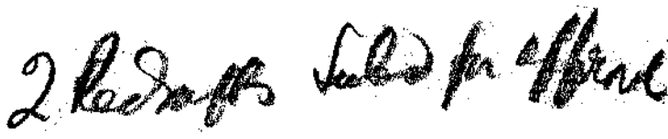
14/3/95

Commissioner

SUR. 13/3,

M. G. C. P., Bangalore—6-3-94.—2000.

18/3



Lr 182-92-12

SI

GOVERNMENT OF MYSORE

(12)